S.B. Civil Writ Petition No.5542/02

Radhey Shyam Sharma Vs. State & Ors.

Date of Order : 07/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. J.R. Choudhary, for petitioner
Mr. B.K. Sharma, Dy.G.A.

With the consent of parties, the matter is finally heard and decided at the stage of admission.

The posts of Physical Teacher Gr.III Male/Female were separately advertised for the academic session 1998-99 from the office of District Education Officer [Secondary] Jaipur-I vide advertisement Ann.1. So far as PTI Gr.III [Male] is concerned, in all 54 vacancies were advertised, out of which 29 [General], 8 [SC], 6 [ST], 11 [OBC].

The petitioner who is member of General Group submitted application in pursuant to advertisement and after his due participation in the process of selection, he secured as per scheme laid down by the respondents, 92.90% of marks and in the consolidated merit list, name of petitioner's find place at Sr.No.36 and in General Category it was shown at No.25. The grievance of the petitioner is that

against 29 vacancies in General Category petitioner's name finds place in general category at No.25, as such he is entitled for appointment on the basis of his merit assessed by the respondents, denial of same is violative of Article 14 of the Constitution.

The respondents have filed reply to the writ petition and after passing the order by this court on 9th January, 2006, further additional affidavit has been filed making factual position clear in the matter wherein it has been averred that apart from his placement in the consolidated merit list at No.36 and in general category at No.25. As per merit 13 persons were appointed vide order dt.5th December, 1998 and 5 thereafter vide order dt.27th February, 1999 in all 18 persons were appointed as per their merit in general category and the last candidate to whom appointment has been offered secured 94.5% of marks, whereas the petitioner secured 92.90% of marks and the last candidate appointed his name finds place at No.22 of consolidated merit list and at Sr.No.14 in general category. It has also been averred that four candidates could not have been appointed and post has been kept vacant for them

because of their verification of the concerned institutions where their degree being awaited further process for their appointment could not have been initiated. The final fact which emerges from the additional affidavit filed by the respondents is that the last candidate who has been appointed secured 94.5% of marks, but petitioner secured 92.90% of marks, no person lower in the order of merit either in consolidated or in general category has been appointed and merely selection, in my opinion, does not confer any right for seeking appointment. In the absence of any applicant lower in merit sought appointment on the basis of selection process in which the petitioner has participated, I find no justification to consider grievance of the petitioner and it is obvious that if any further appointments are made out of list prepared in pursuant to Ann.1 that shall always be in order of merit.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB